

Introduced by Senator BerryhillFebruary 22, 2012

An act to amend Section 33855 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 1178, as introduced, Berryhill. Firearms: return to owner.

Under existing law, a law enforcement agency or court that has taken custody of a firearm is prohibited from returning the firearm to an individual unless specified requirements are met, including, but not limited to, requiring the person to be eligible to possess a firearm and the firearm being listed as belonging to that individual on the Automated Firearms System.

This bill would make nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 33855 of the Penal Code is amended to
2 read:
3 33855. No law enforcement agency or court that has taken
4 custody of ~~any~~ a firearm may return the firearm to ~~any~~ an
5 individual unless the following requirements are satisfied:
6 (a) The individual presents to the agency or court notification
7 of a determination by the department, pursuant to Section 33865,
8 that the person is eligible to possess firearms.
9 (b) If the agency or court has direct access to the Automated
10 Firearms System, the agency or court has verified that the firearm

1 is not listed as stolen pursuant to Section 11108, and that the
2 firearm has been recorded in the Automated Firearms System in
3 the name of the individual who seeks its return.

4 (c) If the firearm has been reported lost or stolen pursuant to
5 Section 11108, a law enforcement agency shall notify the owner
6 or person entitled to possession pursuant to Section 11108.5.
7 However, that person shall provide proof of eligibility to possess
8 a firearm pursuant to Section 33865.

9 (d) Nothing in this section shall prevent the local law
10 enforcement agency from charging the rightful owner or person
11 entitled to possession of the firearm the fees described in Section
12 33880. However, an individual who is applying for a background
13 check to retrieve a firearm that came into the custody or control
14 of a court or law enforcement agency pursuant to Section 33850
15 shall be exempt from the fees in Section 33860, provided that the
16 court or agency determines the firearm was reported stolen to a
17 law enforcement agency prior to the date the firearm came into
18 custody or control of the court or law enforcement agency, or
19 within five business days of the firearm being stolen from its
20 owner. The court or agency shall notify the Department of Justice
21 of this fee exemption in a manner prescribed by the department.